



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 29 2005

OFFICE OF
AIR AND RADIATION

Honorable Samuel W. Bodman
Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Mr. Secretary:

Pursuant to Section 8(f) of the Waste Isolation Pilot Plant (WIPP) Land Withdrawal Act, as amended, and in accordance with the WIPP Compliance Criteria at 40 CFR § 194.11, I hereby notify you that the U.S. Environmental Protection Agency (EPA or "the Agency") has determined that the U.S. Department of Energy's (DOE) Compliance Recertification Application for WIPP is complete. This completeness determination is an administrative determination required under the WIPP Compliance Criteria, which implement the Agency's Final Radioactive Waste Disposal Regulations at Subparts B and C of 40 CFR Part 191. While the completeness determination initiates the six-month evaluation period provided for in Section 8(f)(2) of the Land Withdrawal Act, it does not have any generally applicable legal effect. Further, this determination does not imply or indicate that DOE's Compliance Recertification Application demonstrates compliance with the Compliance Criteria and/or the Disposal Regulations.

Section 8(f) of the amended Land Withdrawal Act requires EPA to evaluate all changes in conditions or activities at WIPP every five years to determine if the facility continues to comply with EPA's disposal regulations. This first recertification process includes a review of all of the changes made at the WIPP facility since the original 1998 EPA certification decision.

Under the applicable regulations, EPA may recertify the WIPP only after DOE has submitted a "full" (or complete) application (see 40 C.F.R. § 194.11). Upon receipt of the Compliance Recertification Application on March 26, 2004, EPA immediately began its review to determine whether the application was complete. Shortly thereafter, the Agency began to identify areas of the Compliance Recertification Application that required supplementary information and analyses. In addition, EPA received public comments and held public meetings on the application that identified areas where additional information was needed for EPA's review.

May 20, 2004 – EPA requested additional information on the performance assessment and monitoring.

July 12, 2004 – EPA requested additional information on waste chemistry.

September 2, 2004 – EPA requested additional references, clarification of issues related to chemistry and actinide solubilities, waste inventory, hydrology, and documentation on computer codes and parameters.

December 17, 2004 – EPA requested additional information on the Hanford tank wastes that are included in the WIPP waste inventory.

February 3, 2005 – EPA requested additional information on DOE's proposed MgO emplacement plan.

March 4, 2005 – EPA requested additional information on performance assessment (PA) issues.

DOE submitted the requested information with a series of 11 letters, which were sent on the following dates:

July 15, 2004
August 16, 2004
September 7, 2004
September 29, 2004
October 20, 2004
November 1, 2004
December 17, 2004
January 19, 2005
March 21, 2005
May 11, 2005
September 20, 2005

All completeness-related correspondence was placed in our dockets (A-98-49, EDOCKET OAR-2004-0025) and on our website (<http://www.epa.gov/radiation/wipp>).

Based on the information provided by DOE, we conclude that the Compliance Recertification Application is now complete. Again, this is the initial, administrative step that indicates DOE has provided information relevant to each applicable provision of the WIPP Compliance Criteria and in sufficient detail for us to proceed with a full technical evaluation of the adequacy of the application. In accordance with Section 8(f)(2) of the amended Land Withdrawal Act, EPA will make its recertification decision within six months of this letter.

To the extent possible, the Agency began conducting a preliminary technical review of the application upon its submittal by DOE, and has provided the Department with relevant technical comments on an ongoing basis. EPA will continue to conduct its technical review of the Compliance Recertification Application as needed, and will convey further requests for additional information and analyses. The Agency will issue its compliance recertification decision, in accordance with 40 CFR Part 194 and Part 191, Subparts B and C, after it has thoroughly evaluated the complete CRA and considered relevant public comments. The public

publication of this letter in the Federal Register.

Thank you for your cooperation during our review process. Should your staff have any questions regarding this request, they may contact Bonnie Gitlin at (202) 343-9290 or by e-mail at <gitlin.bonnie@epa.gov>.

Sincerely,

A handwritten signature in black ink, reading "Elizabeth A. Cotsworth". The signature is fluid and cursive, with the first name "Elizabeth" and last name "Cotsworth" clearly legible.

Elizabeth A. Cotsworth
Director, Office of Radiation and Indoor Air

cc: Bonnie Gitlin, EPA
Frank Marcinowski, DOE/HQ
Lynne Smith, DOE/HQ
Lloyd Piper, DOE/CBFO
Inés Triay, DOE/CBFO
Steve Zappe, NMED

bcc: WIPP Team